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IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

WESTERN CONFERENCE OF TEAMSTERS

PETITIONER

v.

DAIRY DISTRIBUTORS, INC.

RESPONDENT

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Tenth Circuit, reversing a decree of the United States District Court for the District of Utah which perpetually enjoined respondent from enforcing a judgment for $100,000 obtained against petitioner in the state courts of Utah.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Tenth Circuit is reported at 294 F2d 348, and is attached to this petition, together with that court's judgment and denial of the petition for rehearing, as Appendix "A". The opinion of the United States District Court is unreported. That court's findings of fact, conclusions of law, and judgment appear in the Record at 44-48 and 51, re-

spectively. The opinion of the Supreme Court of Utah in the prior, related action is reported in 8 Utah 2d 124, 329 P2d 414, and appears in the Record at 221. This Court's denial of certiorari in that prior action appears at 360 U.S. 909 and is attached to this petition as Appendix "B".

JURISDICTION

The judgment of the United States Court of Appeals was entered on August 22, 1961, and a Petition for Rehearing was denied on October 3, 1961, making such judgment final. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether the doctrine of res judicata bars a Federal District Court from enjoining, in the exercise of its equity powers and in furtherance of a proper and uniform interpretation of Federal Law, the respondent (Dairy Distributors, Inc.) from enforcing as against the petitioner (Western Conference of Teamsters) a state court judgment for damages, rendered under the provisions of Section 303 of the Labor Management Relations Act, on the ground that the state court's assertion of jurisdiction over the subject matter was based on a misinterpretation of the Act and was clearly repugnant to Congressional intent.

2. Whether a Federal District Court may enjoin the enforcement of said judgment on the ground that respondent's recovery under the Labor Management Relations Act was for injury to a trucking business that was operated in interstate commerce without a permit from the Interstate Commerce Commission in contravention of the Interstate Commerce Act and the National Transportation Policy.

STATUTES INVOLVED

The pertinent provisions of the Labor-Management Relations Act (29 U.S.C. 151, et seq.) are Sections 303, 301(b),

and 2(5). The pertinent provisions of the Interstate Commerce Act (49 U.S.C. 1, et seq.) are Sections 303(a)(15), 309 and 322. The text of the provisions is set forth in Appendix "C".

STATEMENT

A.

Factual Background

The respondent, Dairy Distributors, Inc., is a trucking company, located in Amalga, Utah, formed and owned by one Gossner and his family (R. 262-263). The said Gossner also operated in Utah a cooperative association of milk producers known as the Cache Valley Dairymen's Association and undertook to manufacture and distribute cheese for that Association (R. 259-260). The principal business of the respondent trucking company was to purchase cheese from the Association and truck it to New York City where it was sold principally to one N. Dorman and Company, a wholesale cheese dealer there (R. 94, 263-264). Respondent would then purchase back-haul commodities (mainly calicum chloride) in New York or elsewhere in the East for trucking back to Utah for sale there (R. 94-97, 267-271). As admitted by respondent, this operation was conducted without an ICC permit (R. 40).

Local Union 976 is a local union representing trucking employees, functioning in the Ogden and northern Utah area, and is affiliated with the International Brotherhood of Teamsters (R. 79). For some years, it had a collective bargaining relationship with the Association, but upon termination of the 1952 contract, negotiations for renewal thereof failed.

In May of 1955, in an effort to obtain a new collective bargaining agreement, representatives of Local 976, Joint